HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.28504 OF 1997

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ORDER:

The petitioner is a stage carriage permit holder on the town service route – Modampalle to Chodur. It is stated that he was granted variation of the existing permit from Chodur to Jammalamadugu via Kakirenipalle and Seshareddypalle etc. While so, the road in between Kakirenipalle and Seshareddypalle, Seshareddypalle and Jammalamadugu was badly damaged and became not motorable. In the circumstances, the petitioner made an application before the 1st respondent-Regional Transport Authority, Kadapa, for temporary deviation so as to reach Jammalamadugu via Salivendla till the road between Kakirenipalle and Seshareddypalle is repaired. The 1st respondent by order dated 27-07-1992 rejected the said application. Aggrieved by the same, the petitioner preferred an appeal being A.P.436/1992 before the State Transport Appellate Tribunal, Hyderabad, under Section 89 of the Motor Vehicles Act, 1988 (for short "the Act"). The said appeal was allowed by order dated 27-01-1994. While setting aside the order of the 1st respondent, the Tribunal had permitted deviation of route as sought by the petitioner till the culverts are repaired subject to the condition that the petitioner should not pick up or set down passengers on the deviated route.

2. Admittedly, the said order, which remained unchallenged, has become final. Pursuant to the said order, the petitioner was issued temporary permits from time to time to ply his vehicle on the deviated route up to 29-02-1997. Alleging that thereafter, the 1st respondent stopped issuing further temporary permits without any justifiable reason, the petitioner filed W.P.No.24439 of 1997. The said writ petition was disposed of by this Court by order dated 25-09-1997 with directions as under:

> "Having regard to the facts and circumstances of the case, the writ petition is disposed of with a direction that the respondent shall issue permit to the petitioner in accordance with the order passed by the State Transport Appellate Authority in A.P.No.436/92 dated 27-01-1994 after ensuring that the road is still under repair and the bus cannot be operated on the said route."

It is alleged that in spite of the said order, no permit was issued though the petitioner made repeated requests and reminders to the 1st respondent. Hence, this writ petition seeking a declaration that the action of the 1st respondent in not permitting the petitioner to operate his bus on the deviated town service route from Modampalle to Jammalamadugu via Chodur and Salivendla is arbitrary and illegal.

3. The 1st respondent-Regional Transport Officer filed a counter-affidavit stating that the petitioner was initially operating his bus as a town service on the route Modampalle to Chodur. Subsequently, he was granted temporary variation of existing permit from Chodur to Jammalamadugu via Kakirenipalle, Seshareddypalle etc., by the Regional Transport Authority, Kadapa, for four months. Pursuant thereto, a temporary permit, valid from 1.10.1989 to 31.10.1990, was issued under Rule 258(2) of the A.P. Motor Vehicles Rules, 1989 (for short "the Rules"). Again the petitioner applied for temporary permit on deviated route to ply his vehicle on the main road from Chodur to Jammalamadugu on the ground that two culverts were damaged on the existing route. The said request was not accepted as the main route from Proddutur to Jammalamadugu was notified for exclusive operation of A.P. State Road Transport Corporation and there was no possibility to permit private operators. Aggrieved by the same, the petitioner preferred an appeal before the State Transport Appellate Tribunal, which was allowed. Thereafter, on 25-1-1995 the petitioner had applied for pucca variation to ply his vehicle from Chodur to Jammalamadugu via Kakirenipalle and Seshareddypalle. The same was rejected by the Regional Transport Authority, Kadapa, in the

meeting held on 1.2.1997. Hence, the petitioner's application for temporary permit on the deviated route i.e., Modampalle to Jammalamadugu via Salivendula was not considered. Since the petitioner's request for pucca variation was already rejected, the impugned action of the 1st respondent was in accordance with law and the interference by this Court is not warranted.

4. The A.P. State Road Transport Corporation, which got impleaded as respondent No.2 filed a counter-affidavit opposing the relief sought in the writ petition on the ground that the deviated route in which the petitioner is operating his bus overlaps three notified routes. It is also pleaded that there is no possibility of laying the road between Kakirenipalle and Seshareddypalle, since the road to a length of about 4 kms passes through private fields.

5. I have heard the learned counsel for both the parties in detail.

6. It is true that the order of the State Transport Appellate Tribunal dated 27-01-1994 has become final. As a matter of fact, this Court while disposing of W.P.No.24439 of 1997 had reiterated that the respondent is bound to issue permit to the petitioner in accordance with the order of the State Transport Appellate Tribunal dated 27-01-1994. However, it cannot be held that the order of the Tribunal dated 27-01-1994 entitles the petitioner to ply the vehicle on the deviated route i.e., from Chodur to Jammalamadugu via Salivendla for ever.

7. As can be seen from the counter-affidavit of the 1st respondent, the petitioner is holding a pucca stage carriage permit on the town service route only from Modampalle to Chodur. The extension from Chodur to Jammalamadugu via Kakirenipalle and Seshareddypalle was granted by way of temporary variation. While operating the vehicle on the said route, the petitioner sought for temporary deviation via Salivendla on the ground that the road between Kakirenipalle and Seshareddypalle was damaged. It is not in dispute that pursuant to the

order of the Tribunal the petitioner was granted temporary permits to ply the vehicle via Salivendla. However, the 1st respondent's counter-affidavit shows that subsequently the petitioner sought for pucca stage carriage permit by extending the existing permit from Chodur to Jammalamadugu via Kakirenipalle and Seshareddypalle, but the same was rejected by the Regional Transport Authority, Kadapa. A copy of the proceeding of the meeting of the Regional Transport Authority, Kadapa, dated 1.2.1997 has been placed before this Court which makes it clear that the petitioner's request for pucca permit was rejected.

8. It is submitted by the learned Government Pleader that the said order has become final, since the petitioner has not chosen to challenge before the appellate Tribunal or any other Forum.

9. Nothing has been placed before this Court to contradict the version of the respondents. By virtue of the decision of the Regional Transport Authority dated 1.2.1997, the petitioner is not entitled to operate his vehicle on the extended route from Chodur to Jmmalamadugu via Kakirenipalle. In the circumstances, as rightly contended by the learned counsel for the respondents, the question of permitting the petitioner to ply the vehicle on the deviated route via Salivendla does not arise, since such deviation was sought on the ground that the route between Kakirenipalle and Jammalamadugu was not motorable.

10. It is also relevant to note that till today the road between Kakirenipalle and Seshareddypalle could not be repaired and the learned counsel appearing for the 2nd respondent-Corporation, submitted that there is no possibility of laying the road between Kakirenipalle and Seshareddypalle in the near future, since the said land belongs to private parties. In the circumstances, the continuation of the petitioner on the deviated route under the guise of the order of the Appellate Tribunal is nothing but circumventing the statutory

provisions. It is to be noted that even a temporary permit granted under Section 87 of the Act shall be effective for a limited period, which shall not exceed four months. Therefore, grant of temporary permits one after another for unlimited period is nothing but circumventing the statutory provisions, which has been highly deprecated by this Court in **P.S. Saleema Bee v. Secretary State Transport Authority, A.P., Hyderabad and others**[1]

11. Even the order of the Appellate Tribunal dated 27.1.1994 upon which the learned counsel for the petitioner has placed reliance upon, was only as a stop gap arrangement, having regard to the obstruction on the road in respect of which the petitioner was granted temporary variation. My be that the said order dated 27.1.1994 has become final, but in view of the subsequent order dated 1.2.1997 passed by the Regional Transport Authority, Kadapa, rejecting the request of the petitioner for pucca permit on the route from Chodur to Jammalamadugu via Kakirenipalle and Seshareddypalle, the order of the Tribunal has become in operative. Hence, the petitioner cannot be granted any relief in this writ petition on the basis of the said order of the Tribunal.

12. The Writ Petition is accordingly, dismissed. No costs.

13. However, it is made clear that this shall not preclude the petitioner to seek pucca stage carriage permit to ply as town service by extension/variation of the existing permit from Chodur to Jammalamadugu via Salivendla. If any such application is made, the same shall be considered by the 1st respondent and appropriate orders be passed in accordance with law. No costs.

JUSTICE G. ROHINI.

December 28, 2006
MRR

[1] 2002(3) ALD 304.